

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 1660

INTRODUCER: Committee on Health and Human Services Appropriations and Senator Peaden

SUBJECT: Agency for Persons with Disabilities

DATE: April 6, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peters	Peters	HA	Fav/CS
2.	Peters	Kelly	WPSC	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill requires the Agency for Persons with Disabilities (APD) to assign and to provide priority to clients waiting for waiver services into five categories based on priority.

The bill removes a provision permitting all services covered under the waiver to be available to all clients in all tiers. APD is directed to eliminate medication review as a waiver service. The bill eliminates redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating them. The bill reduces the intensity and frequency of supported employment services to clients in stable employment situations with a history of at least three years of employment with the same company or within the same industry. The bill removes an expiration date and limits cost plan utilization growth to no more than 5 percent.

The bill provides flexibility in expenditure of funds in trust accounts in developmental disability centers.

The bill has an indeterminate but significant savings related to: eliminating medication review; limiting in-home support services, companion services, personal care services, and supported

living coaching services; reducing the intensity and frequency of supported employment services to clients in stable employment situations; and limiting the cost plan to the amount of expenditures for the previous state fiscal year plus 5 percent in the waivers.

The Senate proposed budget for Fiscal Year 2009-10 reduces the home and community based services waiver category by \$301,907 (\$97,697 from general revenue) due to the elimination of medication review, effective October 1, 2009. There is also an annualization which brings the total reduction to \$402,543 (\$130,263 from general revenue).

This bill substantially amends ss. 393.065, 393.0661, and 393.23, Florida Statutes.

II. Present Situation:

The Agency for Persons with Disabilities (APD or the agency) has the responsibility to provide services to persons with developmental disabilities. A developmental disability is a disorder or syndrome attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and constitutes a substantial handicap expected to continue indefinitely.¹ The agency annually serves about 35,000 Floridians with developmental disabilities.² As of February 1, 2009, there were 18,537 individuals awaiting services.

An individual is eligible for services if he/she has a developmental disability and is three years of age or older. Children who are between the ages of three and five years of age and are at high risk of having a developmental disability are also eligible for services. Services provided by the agency include community services and supports as well as a limited institutional program. The agency determines eligibility, assesses service needs, and provides funding for purchasing the supports and services identified in assessments.

The range of services and supports available to an individual include employment and training services, environmental adaptive equipment, personal or family supports, residential habilitation, support coordination, and therapeutic supports. There are medical requirements specific to a particular service or support in addition to the general eligibility criteria for services from APD. The majority of services are provided through one of two federal Medicaid waivers.

The developmental disabilities Home and Community Based Services (HCBS) waiver program is a Medicaid funded program. Services provided through the HCBS waiver program enable clients to avoid institutionalization by living in a family setting in their own home or in a licensed residential setting. Clients receiving services through the HCBS waiver are also eligible for all services in the Medicaid state plan. There are approximately 24,000 clients enrolled in FY 2008-2009.

The Family and Supported Living (FSL) waiver makes services available to clients who live with their family or in their own home. Annual expenditures per client are capped at \$14,792, and

¹ Section 393.063(9), F.S.

² Agency for Persons with Disabilities, Waiver Tier Update, available at: <http://apd.myflorida.com/news/2008/agency-revises-waiver-tier-implementation-date.htm>.

fewer services are available under this waiver. Clients are also eligible for all services in the Medicaid state plan.³ There are approximately 6,000 clients enrolled in FY 2008-2009.

In 2007, section 393.0661, F.S., was modified to require a four tier delivery system for waiver services.⁴

Tier one includes only the most complex clients without a cap on expenditures.⁵

Tier two is limited to clients who are authorized for five or more hours of residential habilitation or require more than six hours of in-home support services per day. Tier two annual expenditures are capped at \$55,000.⁶

Tier three includes clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family homes. Annual expenditures for clients in tier three are capped at \$35,000.⁷

Tier four is the family and supported living waiver and is capped at \$14,792 per year.⁸

Trust accounts in Developmental Disabilities Centers are supported by receipts from donations, operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects and other like activities operated in developmental disabilities centers. The receipts must be deposited in any bank, credit union or savings and loan association authorized by the State Treasury. Moneys in the trust account must be expended for the benefit, education and welfare of clients in accordance with requirements established by the Chief Financial Officer. However, donations to the center must be expended in accordance with the intentions of the donor.

III. Effect of Proposed Changes:

Section 1 amends s. 393.065, F.S., to require that the APD assign and provide priority to clients waiting for waiver services. The bill assigns categories from one through five based on priority.

Section 2 amends s. 393.0661, F.S., to remove a provision permitting all services covered under the waiver to be available to all clients in all tiers. The bill also removes a provision that limited an increase in services prior to a certain date.

The bill directs APD to eliminate medication review as a waiver service.

³ Family and Supported Living waiver Quick Reference for Service, available at: <http://apd.myflorida.com/waiver/fsl-quick-reference-guide.pdf>.

⁴ Chapter 2007-64, L.O.F.

⁵ Agency for Persons with Disabilities website, available at: <http://apd.myflorida.com/waiver/tier-waiver-enrollment-procedures.htm> (last visited March 27, 2009).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

The bill directs APD to eliminate redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating them.

The bill directs APD to reduce the intensity and frequency of supported employment services to clients in stable employment situations with a history of at least three years of employment with the same company or within the same industry.

The bill continues a provision relating to the calculation of the amount of waiver cost plan adjustment by removing the expiration date of that provision and limiting cost plan utilization growth to no more than 5 percent.

Section 3 amends s. 393.23, F.S. to revise how money in trust accounts in developmental disability centers may be spent.

Section 4 provides that the bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is a savings associated with the elimination of medication review in the waiver, effective October 1, 2009. In the future, reviews will be performed by agency area office nurses.

	FY 2009-10	FY 2010-11
Home and Community Based Waiver		
General Revenue	(\$97,697)	(\$32,566)
Operations and Maintenance Trust Fund	(\$204,210)	(\$68,070)
Total	(\$301,907)	(\$100,636)

The bill has an indeterminate but significant savings related to:

- limiting in-home support services, companion services, personal care services, and supported living coaching services,
- reducing the intensity and frequency of supported employment services to clients in stable employment situations, and
- limiting the cost plan to the amount of expenditures for the previous state fiscal year plus 5 percent.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health and Human Services Appropriations on April 1, 2009:

Senate Bill 1660 was originally filed as a shell bill expressing legislative intent to revise laws relating to health care. The Health and Human Services Appropriations Committee adopted the committee substitute as described in this bill analysis. The bill requires the Agency for Persons with Disabilities (APD) to assign and to provide priority to clients waiting for waiver services into five categories based on priority; removes a provision permitting all services covered under the waiver to be available to all clients in all tiers; eliminates medication review as a waiver service; eliminates redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating them; reduces the intensity and frequency of supported employment services to clients in stable employment situations with a history of at least three years of employment with the same company or within the same industry; removes an expiration date and limits cost plan utilization growth to no more than 5 percent; and provides flexibility in expenditure of funds in trust accounts in developmental disability centers.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
